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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

FELICIA LAURA COLLIER, Plaintiff and Appellant, v. EAST BAY MUNICIPAL UTILITY DISTRICT, Defendant and Respondent.	A139201 (Alameda County Super. Ct. No. RG12661642)

On March 18, 2010, appellant Felicia Collier was terminated from her employment at respondent East Bay Municipal Utility District (EBMUD) after an investigation found that she had violated the company's policy prohibiting workplace violence. Two years and nine months later, Collier filed a complaint against EBMUD, alleging she was damaged by the investigation report on the incident. EBMUD demurred on multiple grounds, including that Collier did not allege, and could not amend to allege, compliance with the Tort Claims Act (Gov. Code, § 900 et seq.).[1] The trial court sustained the demurrer without leave to amend, finding Collier's lawsuit time barred because she could not allege that she filed either a timely claim or a timely application for leave to file a late claim with EBMUD.

[1] All statutory references are to the Government Code except where otherwise noted.

Collier appeals, asserting a multitude of arguments why her claims against EBMUD should be allowed to proceed, including a request that we amend the statute of limitations to rescue her lawsuit. We conclude that her appeal lacks merit, and we affirm.

COLLIER'S BRIEFS FAIL TO COMPLY WITH FUNDAMENTAL RULES OF APPELLATE LAW

We begin with an observation that Collier's briefs violate numerous rules of appellate law. In the words of the court in *People v. Dougherty* (1982) 138 Cal.App.3d 278, 280, her briefs "read[] like an all-out, frontal assault on the rules on appeal." A few examples are illustrative.

California Rules of Court, rule 8.204(a)(1)(B) (rule) requires each brief to "[s]tate each point under a separate heading or subheading summarizing the point . . . ." Collier's briefs do not contain headings that summarize her points, nor are her briefs organized in any fashion that enables us to ascertain the contentions she is attempting to assert. The lack of structure and complete absence of organized thought render it near impossible to determine Collier's arguments.

That rule also requires that each point be supported "by argument and, if possible, by citation of authority." (Rule 8.204(a)(1)(B).) Collier's citation to authority consists of a list in her opening brief of 29 federal cases that she submits are "examples of cases in other circa's [*sic*] to possibly support my lawsuit." This list in no way satisfies her obligation to supply authority supporting her claims.

Pursuant to rule 8.204(a)(2)(C), an appellant must file an opening brief that, among other things, "[p]rovide[s] a summary of the significant facts limited to matters in the record." Collier's opening brief contains a one-page "introduction," a one-and-one-quarter-page "Overview," a one-and-one-half-page "Statement of the Case," and a two-page list of purported "examples of identity theft, defamation, malice fraud & harassment." None of these sections contains "a summary of the significant facts," nor are they "limited to matters in the record." Rather, these seven pages, all of which are single spaced (see rule 8.204(b)(5) [text must be at least one-and-a-half spaced]), consist of rambling and disjointed opinion, argument, conjecture, and emotional pleas that fail to

depict an "*honest and fair* picture of the pertinent facts." (Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2013) ¶ 9:140, 9-43.)

Rule 8.204(a)(1)(C) requires a party to provide a citation to evidence in the record supporting any matter asserted in a brief. Despite this requirement, the seven pages of Collier's opening brief identified above, as well as the entirety of her reply brief, relate paragraph upon paragraph of her contentions without a *single* citation to the record. Only one page in the opening brief contains record citations, a page entitled "Alameda County Superior Court Clerk Transcript (Vol. I–Vol. IV) Support Appeal of Case No. RG12661642." On that page, Collier lists seven documents, including her pleadings, the report on the investigation that ultimately lead to her termination, the order sustaining the demurrer, and a claim against EBMUD signed by Collier on July 30, 2010, followed by citations to the location of these documents in the record. These citations do not fulfill Collier's obligation to cite to "evidence in the record supporting any matter asserted in a brief." (See, e.g., *People v. Dougherty, supra*, 138 Cal.App.3d at p. 281 ["An all-inclusive reference to 116 reporter's transcript pages is not within the spirit of the rules."].)

We note that Collier appears before us in propria persona, as she did before the trial court. While this may explain the numerous deficiencies in her briefs, it in no way excuses them. (*Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267 ["[T]he in propria persona litigant is held to the same restrictive rules of procedure as an attorney."].) To the extent Collier's "facts" lack proper citation to the record and evidentiary support, we are compelled to disregard them. (*Paiva v. Nichols* (2008) 168 Cal.App.4th 1007, 1037; *In re S.C.* (2006) 138 Cal.App.4th 396, 406 ["When an appellant's brief makes no reference to the pages of the record where a point can be found, an appellate court need not search through the record in an effort to discover the point purportedly made."]; *Regents of University of California v. Sheily* (2004) 122 Cal.App.4th 824, 826-827, fn. 1 ["It is not the task of the reviewing court to search the record for evidence that supports the party's statement; it is for the party to cite the court to those references. Upon the party's failure to do so, the appellate court need not

consider or may disregard the matter."].) And it is not our "function to serve as [Collier's] backup appellate counsel" by furnishing authority for arguments she attempts to make. (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545–546.)

Given Collier's multiple failures to comply with Rule 8.204, we could order the briefs returned for corrections or strike them with leave to file new briefs. (Rule 8.204(e)(2)(A), (B).) We elect, however, to disregard her noncompliance (*id.*, 8.204(e)(2)(C)), and we decide her appeal based on the briefing before us.

COLLIER'S ACTIONS AGAINST EBMUD

The lawsuit that is the subject of this appeal is but one of four actions filed by Collier against EBMUD. As the other three are relevant to the issues before us, we provide a brief chronology of all four actions:

1. *Collier v. East Bay Municipal Utility Dist.*, WCAB No. ADJ6875088 (*Collier I*)

In March 2009, Collier filed a workers' compensation claim, alleging stress and retaliation. Collier represents in her reply brief that she settled the claim on December 18, 2012 for $16,200.

2. *Collier v. East Bay Municipal Utility Dist.*, Alameda County Superior Court No. RG10497512 (*Collier II*)

On March 29, 2010 (11 days after her termination), Collier filed an action against EBMUD and its employee Paul Pericoli (the target of Collier's alleged threat), asserting claims for sexual harassment, retaliation, and race and gender discrimination. On March 29, 2012, the trial court entered summary judgment in favor of defendants.

Collier appealed on May 18, 2012, and we dismissed her appeal on August 17, 2012, for failure to file an opening brief. (No. A135460.)

3. *Collier v. East Bay Municipal Utility Dist.*, Alameda County Superior Court No. RG12661368 (*Collier III*)

On December 27, 2012, Collier filed another action against EBMUD and Pericoli. In her reply brief, Collier represents it was for "stalking, invasion of privacy and civil rights." Collier appealed on September 19, 2013, and that appeal is currently pending in

this court. The notice of appeal states that Collier is appealing from a judgment of dismissal after an order sustaining a demurrer. (No. A139817.)

4. *Collier v. East Bay Municipal Utility Dist.*, Alameda County Superior Court No. RG12661642 (*Collier IV*)

On December 31, 2012, Collier filed her fourth action against EBMUD, the one that is the subject of this appeal. As will be detailed below, the trial court sustained EBMUD's demurrer without leave to amend, and this appeal ensued.

FACTUAL BACKGROUND

In January 2010, EBMUD received a report from employee Elvester Woods that on January 13, Collier, also an EBMUD employee, had made a statement that caused him to be concerned for the safety of coworker Pericoli and other employees of the EBMUD North Yard. According to Woods, Collier, who was experiencing financial problems and was facing the loss of her home and truck, told him, "If I lose my truck, I'm gonna quit my job, give all my money to my mother, and come back here and blow up all these motherfuckers." Given other statements Collier made in the same conversation, Woods understood her statement to be a threat against Pericoli.

EBMUD launched an investigation into the incident, specifically to determine whether Collier violated company policy RSP 200—Workplace Violence Prevention, which policy, among other things, prohibited the making of "a credible threat of violence, or committing a violent act against the life, well-being, family, or property of another person . . . ." The investigation resulted in a February 22 written determination that "Collier made a credible threat of violence against the life, well-being and property of Paul Pericoli specifically and employees of the North Yard generally . . . in violation of RSP 200." This confidential report is at the heart of Collier's claims against EBMUD.

Collier, who had worked for EBMUD since 1983, was terminated on March 18 for violating RSP 200.

PROCEDURAL BACKGROUND

Original Complaint

On December 31, 2012, acting in propria persona, Collier filed a complaint against EBMUD, using judicial council form "Complaint—Personal Injury, Property Damage, Wrongful Death." She indicated that the complaint was for defamation, malice, fraud, and harassment, and attached two form causes of action. The first, for general negligence, alleged that EBMUD was "Negligent in protecting me from defamation, malice, harassment and fraud." The second, for intentional tort, alleged that "Defamation, malice, harassment and fraud were done to to [*sic*] purposely," and referenced the February 22 investigation report. Both causes of action identified January 13, 2010 as the date of injury. Attached to the complaint were 164 pages of documentation relating to the investigation, including the February 22 report itself.

First Amended Complaint

On February 13, 2013, Collier filed a first amended complaint, using the same judicial council form and again indicating that the complaint was for defamation, malice, fraud, and harassment. She alleged a long list of damages, including, "Loss of retirement. Future employment (can't find work with being discharged for Workplace violence and Gross Misconduct," and requested damages of $100,000,000.

Again attached to the amended complaint were form causes of action for general negligence and intentional tort, both still alleging injury on January 13, 2010. As to the negligence claim, Collier now alleged that "EBMUD (in print) provided copies of an investigation of a sensitive matter to employees throughout the district and to union members. [¶] The report was not protected." As to the intentional tort claim, she alleged, "EBMUD (in print) accused me of being a prostitute, committing extortion, being a terrorist and being a liar. [¶] Management knew that this report was being circulated." Attached were 172 pages of documentation regarding the investigation into Collier's alleged threat against Pericoli.

EBMUD's Demurrer

On March 27, 2013, EBMUD demurred to the first amended complaint on the ground that it was barred by the Tort Claims Act. EBMUD argued that the act requires that any civil complaint for money or damages first be presented to and rejected by the pertinent public entity, here EBMUD. (§ 945.4.) The limitations period for filing such a claim for personal injury damages, it noted, is six months from the date of injury, and one year for all other claims. (*Id.*, § 911.2, subd. (a).) According to the first amended complaint, EBMUD's wrongful acts occurred on January 13, 2010. As such, EBMUD argued, Collier had until January 13, 2011, to file a claim arising out of the investigation, which she failed to do.

As alternative grounds for the demurrer, EBMUD also argued that Collier's causes of action were barred by the applicable statutes of limitation and the doctrine of collateral estoppel, and they failed to state facts sufficient to constitute a cause of action and were uncertain.

Collier's Multiple Oppositions to EBMUD's Demurrer

On May 13, 2013, Collier filed four oppositions to EBMUD's demurrer, each one an apparent attempt to respond to the different grounds asserted by EBMUD. In the first, Collier asked the court "to amend statues [*sic*] to allow [her] to continue with said litigation" and "for tolling statutes and any other statutes that apply if possible, to amend statute of limitations (intentional and negligence) of torts in said litigation." In the second and third, she acknowledged that the action had "parallels and overlaps" with *Collier II* and *Collier III*, but disputed that it was duplicative of her prior actions and was barred by collateral estoppel. She also submitted that her mother's unexpected death and her own "injury to her psyche" prevented her from responding to EBMUD's summary judgment motion in *Collier II*. In the fourth, she reiterated her fraud allegations, alleged that EBMUD committed criminal acts, and disputed that collateral estoppel applied or that she was a vexatious litigant.

Nine days later, Collier filed two new causes of action, again for negligence and intentional tort, this time alleging March 18, 2010, as the date of injury and adding further allegations relating to her claims.

On May 30, Collier filed a fifth opposition to the demurrer. In this seven-page document, she complained at length about the investigation, setting forth her version of the incident and why it supported her prior lawsuits and the causes of action here. Collier also complained she had a "psych injury" that EBMUD never took into consideration.

EBMUD filed a reply in support of its demurrer on June 18, primarily arguing that Collier's five oppositions failed to address any of the defects in her first amended complaint. It also noted that in March 2013, Collier filed a Torts Act claim, which EBMUD had rejected not only as untimely, but also insufficient for 13 different reasons.

On June 19—well after her opposition was due—Collier filed an "Opposing Arguement [*sic*] Against Demurrer," reiterating many of the assertions in her prior filings. She also argued that the continuing violations doctrine applied and the statute of limitations was tolled, such that her March 2013 claim was timely. In support of that "opposition," Collier filed 12 "exhibits"—totaling 390 pages—pertaining to the investigation and her termination.

Two days later, Collier filed an "Amended" "Opposing Arguement Against Demurrer," this time claiming that her legal disability caused by her "psych" injury tolled the statute of limitations. She contended that the statute was tolled until March 11, 2011, when her state disability ended, which meant she had until March 2013 to file litigation against EBMUD.

The Court's Tentative Ruling and Collier's Written Objection

On June 21, the court issued a tentative ruling sustaining the demurrer. Collier filed written objection, asking the court to apply the tolling doctrine to extend the statute of limitations to December 18, 2014. She also argued that prior litigation against EBMUD raised different issues, in that the earlier case involved sexual harassment, retaliation, and wrongful termination, while the instant case was for defamation, malice, fraud, and harassment. In support, she submitted revised causes of action for negligence

and intentional tort providing amended details regarding EBMUD's liability and amending the date of injury to February 18, 2010. And once again, Collier submitted exhibits pertaining to the workforce violence investigation, this time totaling 179 pages.

The Court's Order Sustaining the Demurrer Without Leave to Amend

The matter came on for hearing on June 25. Following argument, the court affirmed its tentative ruling sustaining the demurrer without leave to amend, as follows: "EBMUD is a public entity. (See, e.g., *Environmental Defense Fund Inc. v. East Bay Municipal Utility District* (1977) 20 Cal.3d 327, 350.) Therefore, to proceed with litigation against EBMUD, Plaintiff is required to comply with Government Code section 905 et seq. Plaintiff fails to allege that she has complied with the applicable claims statute. Moreover, Plaintiff's claims are based on alleged actions by EBMUD occurring on January 13, 2010. Therefore, Plaintiff was required to file a claim with EBMUD no later than July 13, 2010 (see Government Code section 911.2(a)), or to present an application for leave to file a late claim no later than January 13, 2011 (see Government Code section 911.4(b).) Plaintiff has not alleged facts demonstrating that she was physically or mentally incapacitated during the time period in which a claim was required to be presented (see Government Code section 911.6(b)(3).) Although Plaintiff argues in her FIFTH opposition brief—filed on June 19, nine days too late—that she had a mental illness until March 11, 2011, Plaintiff does not assert that she filed a claim with EBMUD within six months of that date, or filed an application to file a late claim within one year of that date. Therefore, Plaintiff's claims asserted in this action are now timebarred. [¶] In addition, Plaintiff identifies no statutory basis for EBMUD's liability for either of her two claims, as required by Government Code section 815(a). [¶] This entire action is DISMISSED, WITH PREJUDICE."

On July 6, Collier filed a notice of appeal. Two days later, she filed in the superior court a "Request to Overturn Court Order," pleading with the court "at this last hour" to reverse its decision. For the first time, Collier identified a "Claim Against EBMUD" signed by her on July 30, 2010, and received by EBMUD on August 2. She argued that that claim, which related to the allegations litigation in *Collier II*, should be construed as

satisfying the claim-filing requirement for the present case because of the "overlaps and parallels" in the two cases.

Appended to Collier's request was the July 30 "Claim Against EBMUD." The "Statement of Fact" attached to the claim detailed the harassment to which Pericoli had allegedly subjected Collier. The "Argument" section outlined the bases for Collier's claims of disparate treatment, retaliation, and wrongful termination against EBMUD and Pericoli.

Notice of entry of judgment was served on July 8, 2013.

DISCUSSION

The Trial Court Properly Sustained EBMUD's Demurrer to the First Amended Complaint

Standard of Review

A demurrer tests the legal sufficiency of the factual allegations in a complaint. (*McCall v. PacifiCare of Cal., Inc.* (2001) 25 Cal.4th 412, 415.) When the face of the complaint, or matters judicially noticeable, reveals a jurisdictional bar to plaintiff's claims, such as the running of a relevant statute of limitations, the demurrer must be sustained. (*City of Industry v. City of Fillmore* (2011) 198 Cal.App.4th 191, 207.)

In reviewing the dismissal of an action following an order sustaining a demurrer, we conduct a de novo review of the complaint, exercising our independent judgment on whether the complaint states a cause of action as a matter of law. (*Moore v. Regents of Univ. of California* (1990) 51 Cal.3d 120, 125; *Financial Corp. of America v. Wilburn* (1987) 189 Cal.App.3d 764, 768–769.) We assume the truth of properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded, and matters of which judicial notice has been taken, and we afford no credit to contentions, deductions, or legal conclusions. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

Collier Failed to Allege Compliance With the Tort Claims Act

The Tort Claims Act requires an individual to present a timely claim for money or damages to a local public entity before suing the entity for money or damages. (§§ 905,

945.4 [with certain exceptions, "no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented . . . until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board . . . ."].) Per section 911.2, "A claim relating to a cause of action for death or for injury to person or to personal property . . . shall be presented . . . not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented . . . not later than one year after the accrual of the cause of action." The six month limitations period is " 'mandatory and must be strictly complied with . . . .' " (*Chase v. State of California* (1977) 67 Cal.App.3d 808, 812.)

EBMUD is a public entity organized under the Municipal Utility District Act. (Pub. Util. Code, § 11501 et seq.; *Environmental Defense Fund v. East Bay Mun. Utility Dist.* (1977) 20 Cal.3d 327, 350; *East Bay Mun. Utility Dist. v. Richmond Redevelopment Agency* (1975) 51 Cal.App.3d 789, 791–792.) Accordingly, Collier was required to affirmatively allege compliance with the claim presentation requirement or, alternatively, facts showing the applicability of a recognized exception or excuse for noncompliance. (*C.A. Magistretti Co. V. Merced Irrigation Dist.* (1972) 27 Cal.App.3d 270, 274–275 [cause of action must affirmatively allege compliance with the claims presentation requirement, or facts showing the applicability of a recognized exception or excuse for noncompliance].) In her first amended complaint, Collier identified the date of her alleged injury as January 13, 2010. As her causes of action purported to be for personal injury, Collier was required to present a claim to EBMUD within six months of that date, or by July 13, 2010. (§ 911.2, subd. (a).) She did not, however, allege compliance with this requirement.

Alternatively, a claimant who failed to file a timely claim can, within one year of the date of alleged injury, request leave to file a late claim. (§ 911.4, subd. (b).) Again, Collier did not allege that she requested leave to file a late claim on or before January 13, 2011. As such, the trial court correctly found that Collier did not allege compliance with the mandatory provisions of the Tort Claims Act.

Collier presents numerous arguments why she should be permitted to pursue her claims against EBMUD despite her failure to satisfy the claim-filing requirement. For one, she contends that she did in fact satisfy the claim-filing requirement, citing the July 30, 2010 "Claim Against EBMUD" she appended to her untimely, July 8, 2013 filing. She then asks that the date of injury on her pleading be "adjust[ed]" to March 18, 2010 (the date of her termination), rather than January 13 as alleged in her first amended complaint. Under this scenario, she urges, her July 30 claim should be deemed to satisfy her claim filing requirement. But the July 30 claim cannot rescue Collier's lawsuit. That claim expressly stated that it was for sexual harassment, retaliation, and wrongful termination, and Collier litigated those allegations in *Collier II.* And not only were those allegations previously litigated, but Collier confirms in her opening brief that those are not the allegations at issue here: "[EBMUD] believes this is a duplicate case of sexual harassment, retaliation and wrongful termination which it is not."

Alternatively, Collier concedes she failed to file a timely tort claim and asks that we "review, amend or attach a [*sic*] addition" to section 945.4, to extend the time for filing a claim against a public entity to two years. She also "recommends" that we "paus[e] the SOL for government code 945.4 in filing a pleading" for an adult suffering from a medical or psychological illness, with the statute starting to run once the individual has been "released form such condition." Clearly, Collier misconstrues the scope of our authority and the purposes of appellate review.

The separation of powers doctrine, codified in Article III, section 3 of the California Constitution provides, "The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." The judicial branch is tasked with assessing the validity of legislative and executive actions and insuring the orderly administration of justice, while the Legislature is responsible for enacting the laws. (Cal. Const., art. VI, § 1; *Superior Court v. County of Mendocino* (1996) 13 Cal.4th 45, 53.) We cannot amend the statutes as Collier requests, as to do so would encroach on the function of the Legislature. (See *Scott Co. v. United States Fidelity &*

Guaranty Ins. Co. (2003) 107 Cal.App.4th 197, 210 [“Just as the courts may not encroach upon the Legislature’s function to define social policy through its enactments, the Legislature may not materially impair the essential duty of the courts to resolve specific controversies and regulate the litigation ‘to ensure the orderly and effective administration of justice.’ ”].)

Collier also suggested in her oppositions to EBMUD’s demurrer that her “psych” injury tolled the limitations period for filing a tort claim. Specifically, she argued below that due to her “psych” injury she was on state disability until March 11, 2011, and the statute of limitations should not have started to run until that date. This argument is unavailing for three reasons. First, Code of Civil Procedure section 352 provides that if a person is insane when a cause of action accrues, one generally does not count the time of the insanity in determining whether a statute of limitations has run. (Code Civ. Proc., § 352, subd. (a).) However, that section also clearly states that it “does not apply to an action against a public entity” for a which a tort claim is required. (*Id.*, subd. (b).) It thus would not apply to Collier’s action against EBMUD.

Second, insanity under Code of Civil Procedure section 352 has been described as a condition that renders the individual “incapable of caring for his property or transacting business, or understanding the nature or effects of his acts.” (*Hsu v. Mt. Zion Hospital* (1968) 259 Cal.App.2d 562, 571; accord, *Feeley v. Southern Pacific Transportation Co.* (1991) 234 Cal.App.3d 949, 952–953.) The insanity must exist continuously from the date the cause of action arose. (*Weinstock v. Eissler* (1964) 224 Cal.App.2d 212, 230–232.) Collier alleged no facts suggesting that she continuously suffered from this level of incapacity, and in fact her conduct since she initiated her very first claim against EBMUD in 2009 suggests otherwise.

Third, if the limitations period began to run on March 11, 2011, Collier would have had six months from that date—or until September 11, 2011—to file her tort claim against EBMUD. She did not allege that she did so, and the only evidence in the record indicates that she did not file a claim until 2013, well outside the limitations period.

Finally, Collier suggests that the continuing violations doctrine somehow salvages her claims. As this suggestion is unsupported by any explanation or authority, we decline to consider it.

The Trial Court Did Not Abuse Its Discretion In Sustaining the Demurrer Without Leave to Amend

While the decision to sustain or overrule a demurrer is a legal ruling subject to de novo review, the granting of leave to amend involves an exercise of the trial court's discretion. (*Hendy v. Losse* (1991) 54 Cal.3d 723, 742; *Blank v. Kirwan, supra,* 39 Cal.3d at p. 318; *Hernandez v. City of Pomona* (1996) 49 Cal.App.4th 1492, 1497.) We thus review the denial of leave to amend for abuse of discretion. (*Hayter Trucking, Inc. v. Shell Western E&P, Inc.* (1993) 18 Cal.App.4th 1, 12; *Everett v. State Farm General Ins. Co.* (2008) 162 Cal.App.4th 649, 655.) "[W]e determine whether there is a reasonable probability that the defect can be cured by amendment." (*V.C. v. Los Angeles United School Dist.* (2006) 139 Cal.App.4th 499, 506.) Collier, as the appellant, bears the burdening of proving that the trial court abused its discretion in denying leave to amend. (*Blank v. Kirwan, supra,* 39 Cal.3d at p. 318; *Traders Sports, Inc. v. City of San Leandro* (2001) 93 Cal.App.4th 37, 43.) She has not satisfied this burden.

Collier has not identified any facts she can allege to demonstrate compliance with the Tort Claims Act. She argues that she filed a timely claim on August 2, 2010, but that claim cannot save the instant lawsuit for the reasons detailed above. Likewise, she has not demonstrated that she can allege facts that would support tolling the limitations period. We thus conclude the trial court did not abuse its discretion in sustaining Collier's demurrer without leave to amend.

DISPOSITION

The judgment of dismissal is affirmed.

_____
Richman, J.

We concur:

_____
Kline, P.J.

_____
Brick, J.*

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.